



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,579	10/24/2003	Michael Knaak	031456/267075	9031
826	7590	07/11/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				KUHNS, ALLAN R
ART UNIT		PAPER NUMBER		
		1732		

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/692,579	KNAAK ET AL.	
	Examiner	Art Unit	
	Allan Kuhns	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 April 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 18-30 is/are allowed.

6) Claim(s) 1-4 and 6-17 is/are rejected.

7) Claim(s) 5 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

1. Applicants' traverse of the restriction requirement in the response filed April 25, 2006 is noted by the examiner, but the traversal is moot based on the cancellation of claims 31-60.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeier et al. (5,802,945) as set forth in the rejection of claims 1-13, 15-28 and 30 in the previous Office action.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmeier et al. as applied to claims 1-4, 6-13 and 15-17 above, and further in view of Kitamura et al. (5,105,227) as set forth in the rejection of claims 14 and 29 in the previous Office action.

5. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 18-30 are allowed.

7. Applicants' arguments filed April 25, 2006 have been fully considered but they are not persuasive. Applicants argue that the '945 patent fails to disclose several particularly claimed features of the present apparatus and that the previous Office action has failed to provide any evidence of motivation or suggestion to modify the

apparatus of the '945 invention to arrive at the presently claimed apparatus. Applicants then focus on the aspects of amended claim 1 which states that the rotation of the main shaft through a partial revolution moves the needle roller through a predetermined arc of motion while the main shaft of the '945 patent is fully rotatable through 360 degrees. This is not persuasive because a main shaft which is rotatable through a full 360 degrees is also rotatable through a partial revolution since a full revolution fully encompasses the partial revolution.

Applicants further argue that the needle roller shaft of the '945 patent is subject to a longitudinal displacement, but it is not seen by the examiner that this aspect would prohibit the instantly claimed apparatus from still being readable on the disclosure of the '945 patent.

Applicants also present an argument concerning a needle roller of the instantly claimed process moving from an operative to an inoperative position, but when the needles of the needle rollers of the '945 patent are not contacting the web 33, they are effectively in an inoperative position.

Applicants argue that the '945 patent fails to teach a needle roller cover, and that the broad assertion that such is known in the art, without any further showing by the Office, is insufficient. The examiner continues to believe that such an assertion is sufficient since Applicants have not seasonably challenged the assertion, but merely have stated that the cover is not shown by the '945 patent (which has been effectively conceded by the examiner).

Applicants also appear to argue that the recitation in claim 15 that the apparatus is structured an arranged for attachment to a foam-in-bag cushion production apparatus itself connotes a distinctness over the structure of the '945 patent, but it is not clear to the examiner what additional structure is to be inferred from this recitation.

Applicants also argue that there is no motivation to combine the teaching of the '227 patent with that of the '945 patent. The examiner continues to believe that such motivation exists, for reasons already of record. It is not seen by the examiner why the actuator of the '227 patent, in combination with the cam system of the '945 patent, would not serve to move the needle roller into and out of the operative position.

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-

1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns

ALLAN R. KUHNS
PRIMARY EXAMINER AU 173²

7-6-06